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Letter dated 27 August 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/586).

The Counter-Terrorism Committee has received the attached third report from the Republic of the Russian Federation submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 11 August 2003 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Russian]

In accordance with paragraph 6 of Security Council resolution 1373 (2001) and in reply to your letter of 9 May 2003, I have the honour to transmit the third report of the Russian Federation to the Committee on Counter-Terrorism of the United Nations Security Council on progress in the implementation of the aforementioned resolution (see enclosure).*

(*Signed*) Gennadi **Gatilov**
Permanent Representative a.i.

* Annexes are on file with the Secretariat and are available for consultation.

Enclosure

Information provided by the Russian Federation in response to the additional questions and observations prepared by the Counter-Terrorism Committee of the Security Council in connection with the supplementary report of the Russian Federation submitted in accordance with Security Council resolution 1373 (2001)

1.2. **It is stated on the one hand in the reply to subparagraph 1 (c) on the question of freezing funds, etc., inter alia that investigative and judicial bodies when they are carrying out international investigative requests in accordance with international agreements could decide to freeze accounts and on the other articles 115 and 116 of the Code of Criminal Procedure provide for the possibility of attaching the accounts of both individual citizens and organizations for criminal cases being tried which involve terrorism and other related offences (page 4 of the supplementary report). It is not clear therefore whether the investigative authorities in the Russian Federation could decide to freeze assets of those individuals and entities, both residents and non-residents, suspected of having links with terrorism without any case being instituted in a court against the concerned individuals and entities. The CTC would be grateful for an explanation of the relevant provisions of law in this regard.**

In accordance with Act No. 115 of the Russian Federation of 7 August 2001, "On the prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism", operations involving money or other assets are subject to mandatory control if even one of the parties involved is an organization or a physical person which, according to evidence obtained in accordance with this Federal Act, has participated in extremist activities, or a legal person which directly or indirectly owns or is under the control of such an organization.

The procedure for establishing a list of organizations carrying out operations involving money or other assets and bringing it to the attention of those organizations and persons is determined by the Government of the Russian Federation.

Grounds for the inclusion of an organization or physical person in that list are:

- A decision by a court of the Russian Federation which has entered into force abolishing, or banning the activities of, an organization in connection with its extremist activities;
- A judgement of a court of the Russian Federation which has entered into force that a physical person is guilty of a criminal offence related to terrorism;
- A decision of the Public Prosecutor of the Russian Federation or a prosecutor appointed by him to suspend the activities of an organization in connection with an appeal before the court stating that the organization is responsible for terrorist activities;
- A decision of an investigator or prosecutor to institute criminal proceedings against a person who has committed a crime of a terrorist nature;

- Lists of organizations and physical persons connected with terrorist organizations or terrorists compiled by international organizations involved in combating terrorism, or by their subsidiary organs, which are recognized by the Russian Federation;

- Judgements (decisions) of courts and decisions of other competent organs of foreign States recognized in the Russian Federation in accordance with international agreements to which the Russian Federation is a party and with Federal laws regarding organizations or physical persons involved in terrorist activities.

Organizations conducting operations involving money or other assets shall suspend such operations, with the exception of operations to enter money deposited in the account of a physical or legal person, within two working days of the date on which the client had requested that the operations should be carried out, and no later than one working day following the date on which the operations were suspended they shall present information on those operations to the competent organ in the event that one of the parties is an organization or a physical person which, according to evidence obtained in accordance with this Federal Act, has participated in terrorist activities, or a legal person which directly or indirectly owns or is under the control of such an organization or person, whether a legal or a physical person, and is acting on behalf of or on the order of, such an organization or person.

The competent organ (article 8 of the Act), appointed by the President of the Russian Federation, is the Federal executive authority whose purposes, functions and authority in the area of combating the legalization of funds attained by criminal means (money-laundering) and the financing of terrorism have been established in accordance with this Federal Act.

Decree No. 263 of the President of the Russian Federation of 1 January 2001 established the Committee of the Russian Federation for Financial Monitoring, which is the Federal executive organ authorized to take measures to combat the legalization of funds obtained by criminal means (money-laundering) and to coordinate the activities of the Federal executive organs in this area.

By resolution No. 211 of 2 April 2002, the Government of the Russian Federation confirmed the establishment of the Committee of the Russian Federation for Financial Monitoring.

Given sufficient grounds indicating that an operation or transaction is linked to the legalization of funds obtained by criminal means (money-laundering) or the financing of terrorism, the competent organ shall transmit the relevant information and material to the law enforcement organs according to their areas of competence (as stated in Federal Act No. 131 of 30 October 2002).

The competent organ shall issue a decision suspending operations involving money or other assets within five working days, if the information it has received in accordance with the Act, as a result of a preliminary examination, is recognized to be well-founded (in accordance with Federal Act No. 131).

In accordance with article 10 ("Exchange of information and legal assistance") of Act No. 115 of the Russian Federation of 7 August 2001 "On the prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism", State organs of the Russian Federation involved in the

prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism, in accordance with international agreements to which the Russian Federation is a party shall cooperate with the competent organs of foreign States in that area including at the stage of the preliminary investigation.

State organs of the Russian Federation involved in activities connected with the prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism, in accordance with international agreements to which the Russian Federation is a party and Federal law, shall (within the limits of their competence) comply with requests from the competent organs of foreign States concerning the confiscation of funds obtained by criminal means which are used for the financing of terrorism, and concerning various procedural matters relating to the detection of funds obtained by criminal means and the financing of terrorism, the attachment of property and the freezing of assets, and shall provide expertise, interrogate suspects, witnesses, victims and other persons, conduct searches and seizures, transmit material evidence, attach property, serve summonses and transmit documents (in accordance with Federal Act No. 131).

Thus, the investigative organs of the Russian Federation may take decisions to freeze the accounts of individuals or organizations, both residents and non-residents, suspected of having links with terrorism, without any criminal case having been instituted against them, while conducting interrogations or providing legal assistance.

In accordance with article 146 of the Code of Criminal Procedure of the Russian Federation, criminal proceedings may be instituted by investigating officials with the agreement of the prosecutor, and also by the prosecutor. The courts do not have the right to institute criminal proceedings.

The provisions of articles 115, 166 and 165 of the Code of Criminal Procedure of the Russian Federation concerning the procedure for the attachment of property and securities govern the pre-trial procedure in criminal cases in the territory of the Russian Federation unless, in accordance with article 2, paragraph 1, of the Code, an international agreement to which the Russian Federation is a party states otherwise.

In accordance with the international agreements to which the Russian Federation is a party and federal laws, judgements (decisions) of the courts of foreign States, which have entered into force, regarding persons possessing funds obtained by criminal means are recognized.

In accordance with international agreements to which the Russian Federation is a party, judgements (decisions) of the courts of foreign States, which have entered into force, regarding the confiscation of funds obtained by criminal means or assets of equivalent value are recognized and enforced.

Funds obtained by criminal means or assets of equivalent value which have been confiscated may be transmitted in full or in part to the foreign State whose court handed down the decision regarding confiscation, in accordance with the relevant international agreement to which the Russian Federation is a party.

1.3. **The CTC would be grateful to be informed whether the Federal Act No. 152289-3 on the introduction of amendments and additions to the Federal Act**

"On measures to combat terrorism" received the assent of the State Duma and has become an enforceable law.

Draft Federal Act No. 152289-3 on the introduction of amendments and additions to the Federal Act "On measures to combat terrorism" (relating to operational information and compensation for losses caused by terrorist acts), in connection with the adoption by the Security Council of resolution 1373 (2001), was voted down by the State Duma of the Federal Assembly of the Russian Federation on 11 April 2003, by its resolution No. 3880-111.

1.4. **It is stated in the supplementary report (page 5) that the Russian Federation Law does not contain legal rules governing alternative money transfer mechanisms. How does the Russian Federation then propose to regulate illegal and clandestine transfer through mechanisms such as Hawala?**

Under the law of the Russian Federation, illegal and clandestine money-transfer mechanisms such as Hawala can constitute offences as unlawful business activities (article 171 of the Criminal Code) or unlawful banking activities (article 172 of the Criminal Code).

Article 172 of the Criminal Code of the Russian Federation establishes criminal liability for the carrying out of banking activities (banking operations) without registration or the necessary licence, or contrary to the conditions under which the licence was issued (where serious loss is suffered or considerable income is derived). Article 15.26 of the Code on administrative offences establishes administrative liability for breaking the law on banks and banking activities

1.5. **It is stated in reply to subparagraph 1 (d) (at page 6) in the supplementary report that lawyers and other financial intermediaries are not required to report suspicious transactions as required by the Federal Act No. 115. Article 18 of the Convention for the Suppression of the Financing of Terrorism requires that other professions involved in financial transactions also pay attention to unusual or suspicious transactions and report suspicious transactions stemming from a criminal activity. As the Russian Federation has become a party to the Convention, how does the Russian Federation propose to meet this requirement of the Convention?**

In accordance with the requirements of article 18 of the International Convention for the Suppression of the Financing of Terrorism, persons professionally involved in financial transactions are also required to pay attention to unusual or suspicious transactions, and to report on suspicious transactions stemming from criminal sources. The Russian Federation is a party to that Convention. It has discussed with representatives of the Financial Action Task Force on Money Laundering (FATF) the issue of expanding the list of bodies and individuals required to report suspicious financial transactions to the appropriate organ.

In order to further improve Russian legislation to combat money-laundering, proposals are being prepared to introduce amendments and additions to the corresponding law on the monitoring of the activities of financial intermediaries, obliging them to report to the competent organ any unusual or suspicious transactions.

In January 2003, Federal Act No. 115 was amended to extend its application to organizations which provide gambling services (totalizators, betting offices, lotteries and prize draws), buy and sell precious metals and stones, or manage investment funds or non-State pension funds. As a result of these amendments, when one or more parties to a transaction are known to be involved in extremist activities, credit institutions may refuse to open an account or conduct a transaction if a physical or legal person has not provided the necessary identification or other information. The law directs the credit institutions to report suspicious transactions or those subject to compulsory monitoring to the Committee of the Russian Federation for Financial Monitoring.

Article 7 of the aforementioned Act obliges the reporting organizations to identify the physical or legal persons on whose instructions they carry out transactions; to collect detailed information on transactions which are subject to mandatory controls and communicate this information to the Committee of the Russian Federation for Financial Monitoring within one working day from the date of the transaction; to provide information to the Committee of the Russian Federation for Financial Monitoring in response to written enquiries; and establish rules for internal monitoring and appoint officials responsible for ensuring compliance with those rules. The Act also requires that the internal monitoring rules should include a procedure to ensure that important information is recorded, provide for the protection of confidentiality, establish the requirements in terms of qualifications for the preparation and training of staff and determine the criteria for the detection of unusual transactions. The internal monitoring rules are worked out on the basis of recommendations adopted by the Central Bank of the Russian Federation (in the case of credit institutions) and by the Government of the Russian Federation (in the case of other reporting organizations).

Moreover, Russian legislation, in accordance with the recommendations of FATF, requires that reports should be submitted when large currency transactions take place in excess of a given sum. The Russian Federation uses a system of reporting on large cash transactions. Article 6 of Federal Act No. 115 requires reporting organizations to submit to the Committee of the Russian Federation for Financial Monitoring information on transactions to the value of 600,000 roubles (approximately €16,700 or US$ 19,300 at May 2003 rates) which involve: a cash deposit to or withdrawals from the account of a legal person in circumstances which do not correspond to the nature of its economic activity; the purchase or sale of cash sums in foreign currency; the acquisition of securities for cash; the cashing of a cheque to the bearer which has been issued by a non-resident; the changing of banknotes of one denomination for banknotes of a different denomination; or cash payments into the core capital of a legal person.

There are currently a number of supervisory organs which are responsible for ensuring that reporting organizations which come under their authority comply with the requirements of the Act in terms of preventing money-laundering and the financing of terrorism.

The Central Bank is responsible for the supervision of credit institutions (banks). The Insurance Monitoring Department of the Ministry of Finance is responsible for monitoring insurance companies and organizations which manage non-State pension funds. The Assay Office of the Ministry of Finance monitors organizations which buy and sell precious metals and stones, and the Ministry of

Communications is responsible for monitoring post offices. The Federal Securities Commission of the Russian Federation bears the responsibility for the monitoring of professional members of the securities market. The Committee of the Russian Federation for Financial Monitoring monitors pawnshops, leasing companies and gambling services.

1.6. **It is not clear from the reply given to the question on subparagraph 2 (e) at page 14 of the supplementary report that a foreign national accused of a terrorist offence committed outside the territory of the Russian Federation when found in Russian Federation territory will be tried in the Russian Federation if, for some reason, the person is not extradited. The CTC would be content to know the legal position in this regard.**

As a party to the main international counter-terrorism conventions, the Russian Federation adheres to the principle whereby it establishes its jurisdiction over terrorist crimes in cases where those who have committed such crimes are in its territory; it does not hand them over to any other State party.

Criminal legal action in respect of persons who have committed crimes outside the territory of the Russian Federation is governed by article 12 of the Criminal Code. Under paragraph 3 of that article, if a foreign national or stateless person not living permanently in the Russian Federation has committed a crime outside the territory of the Russian Federation, that person is subject to criminal penalties under the Code in cases where the offence was directed against the interests of the Russian Federation and in the cases provided for under an international agreement to which the Russian Federation is a party, if the offender has not been sentenced in a foreign country and is criminally liable in the territory of the Russian Federation.

1.7. **The CTC would be grateful for a progress report on the ratification of the one remaining convention by the Russian Federation.**

Preparations are being completed for the ratification of the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection, which the Russian Federation has signed. The draft documents necessary for its submission to the Federal Assembly of the Russian Federation for ratification are currently being prepared.

1.8. **The CTC would be content to know whether all the acts in the International Instruments related to the Prevention and Suppression of International Terrorism have been included as offences under the relevant laws of the Russian Federation.**

A new article 205-1 was added to the Criminal Code of the Russian Federation by means of a Federal Act of 24 June 2002. This article establishes liability for involvement in the commission of an offence of a terrorist nature or the provision of other assistance in its commission. The provisions of the article deal with highly dangerous acts: the recruitment and financing of terrorists, and other offences which are dealt with as criminal offences in international conventions on the prevention and suppression of international terrorism.

1.9. **The CTC is aware that the Russian Federation may have covered some or all of the points in the preceding paragraphs in reports or questionnaires**

submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of the Russian Federation's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of resolution 1373 (2001).

Annexed to this document is a copy of the responses of the Russian Federation concerning its compliance with the Special Recommendations on Terrorist Financing of FATF, which were submitted to that organization in August 2002.